IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Bail Appl..No. 4692 of 2007()

CMP.7038/2007 of J.M.F.C., KAYAMKULAM
CRIME NO. 34/07 OF THE VALLIKUNNAM POLICE STATION.

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PETITIONERS/ACCUSED 1,2,3,5,6 & 7

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1. SHRI. ASSIM, S/O. ABDUL ASSEES,
AGED 23 YEARS, KOOTHADIVILAYIL VEEDU,
ENATHUMANNADI P.O., KADAMBANADU VILLAGE.

2. ANILKUMAR, S/O. GOPALAN, AGED 35 YEARS,
SANKARA VILASOM, NELLIMUGAL P.O.,
MUNAPPALLY MURI, PERINGANADU VILLAGE.

3. SUBHASH, AGED 22 YEARS, S/O. VASUDEVAN,
NEDIYAKALA THEKKETHIL, CHERUPUNJABHAGAM,
PERINGANAD, ADUR VILLAGE.

4. SURESH, AGED 29, S/O. VASUDEVAN,
NEDIYAKALA THEKKETHIL, -DO- -DO-

5. RAJEEV, AGED 22 YEARS, S/O. RAVEENDRAN
PILLAI, RAJEEV NIVAS, KIZHAKKE MURI,
THAMARAKULAM VILLAGE.

6. RAJESH KUMAR, AGED 22 YEARS,
S/O. SASIDHARAN, SMITHA BHAVAN,
CHERUKUNNAM MURI, PALLICKAL VILLAGE.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS: COMPLAINANTS

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1. THE STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
VALLIKUNNAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.4692 OF 2007

Dated this the 3rd day of August, 2007

ORDER

The petitioners are accused 1 to 3 and 5 to 7 in a crime registered under Sec.399 of the IPC. The crux of the allegations raised against the accused persons is that on 17/7/07 at about mid night while the police party was on patrol duty and conducting search of vehicles, they saw a vehicle bearing registration No.KL-39/1251 coming along the public road at an excessive speed. Stop signal was given by the police party. Some of the accused ran away immediately and others attempted to flee from the place. Dangerous weapons like iron rods, iron plate, sword stick, blade etc., were found in the vehicle. Chilly powder was also found available. Interrogation of the petitioners led the detecting police officials to the conclusion that they were together for the purpose committing dacoity . The petitioners were arrested

on 17/7/07. They were produced before the learned Magistrate. They continue in custody from that date.

2. The learned counsel for the petitioners submits that the petitioners have no criminal antecedents. It would, in these circumstances, be idle to assume that they have committed the offence punishable under Sec.399 of the IPC, urges the learned counsel for the petitioners. It is prayed that the petitioners, who have been remained in custody from 17/7/07, may now be enlarged on bail subject to appropriate conditions.

3. The application is stoutly opposed by the learned Public Prosecutor. The allegations are serious. Prior conviction is not a condition precedent for the offence under Sec.399 of the IPC. The totality of circumstances must be taken into account and assessed to decide whether such offence has been committed or not. The learned Public Prosecutor points out that the car in which the miscreants were allegedly found has subsequently been proved to be a car which was thieved in an earlier crime committed. In a serious crime like this, the Investigator may be granted reasonable further time to complete the investigation before the question of release of the miscreants is considered by the court, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in

the opposition by the learned Public Prosecutor. I am satisfied that this is not a fit case where the petitioner can, at this stage, be enlarged on bail. The Investigating Officer must be granted some further time to complete the investigation.

5. In the result, this petition is dismissed; but with the observation that the petitioners shall be at liberty to move this Court for bail again at a later stage of the investigation – not, at any rate, prior to 17/8/2007. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge